

## PART 3 – INSTRUCTIONS TO THE OFFEROR FOR PREPARING THE PROPOSAL

*Before completing a proposal, carefully read and consider these instructions, the concession contract document, the exhibits to the concession contract document, and the other information in this Prospectus, its appendix, and any other documents to which it refers.*

### A. RESPONSE PERIOD FOR SUBMISSION OF PROPOSALS

It is assumed that all interested parties submitting a proposal in response to this Prospectus are aware of the provisions of 43 CFR Subtitle A and the latest Reclamation Manual Policy and Directives and Standards, as amended.

Proposals must be received by 4 p.m. on the date shown on the cover page of this Prospectus. Public notice has been given.

Only an offeror submitting a responsive proposal is eligible to be awarded a new concession contract. A proposal is considered responsive if it is submitted on time and is determined by Reclamation or Reclamation's delegate (for ALL matters relating to this Prospectus, that delegate is the Mid-Pacific Regional Director) to satisfy all the minimum requirements of the new concession contract and this Prospectus and to provide all the information required by this Prospectus. The minimum requirements for the new concession contract are identified in Part A of PART 5 of the Prospectus. Offerors must agree in their proposal to the minimum requirements of this Prospectus, as identified in Part A, and must provide all the information required by Part B of PART 5 for the proposal to be considered responsive.

Proposals determined to be non-responsive by Reclamation will be rejected and will not be further evaluated.

### B. SCHEDULE OF MEETINGS AND CONCESSION FACILITY TOURS

All interested parties may tour the concession locations and discuss the requirements of the Prospectus at the following scheduled meetings. To ensure fair competition, no other meetings will be held. All meetings will begin at the Reclamation Office at Lake Berryessa located at 5520 Knoxville Road, Napa, CA. 94558.

	Meeting Date		Time		Location
1.	June 19, 2007		10:00AM		Putah Creek, Rancho Monticello, Lake Berryessa Marina, Spanish Flat
2.	June 20, 2007		10:00AM		Steele Park, Pleasure Cove, Markley Cove
3.	June 21, 2007		10:00AM		As Needed

There will also be a meeting without a tour that will occur on **July 9, 2007 beginning at 9AM at 5520 Knoxville Road, Napa CA. 94558** that all prospective offerors are encouraged to attend. Note that this meeting is scheduled approximately one month after the issuance date of the Prospectus. Reclamation recognizes that this concession opportunity is very complex with multiple scenarios on how offerors may

decide to submit proposals and it is likely that many questions/concerns will develop over a period of time after work on the proposal package(s) have begun. Some of these potential questions/concerns may not be apparent or realized at the time of the initial meetings and tours. Therefore, this secondary meeting is scheduled to address any subsequent questions/concerns that have developed during the individual proposal package development. Reclamation will be prepared to have the meeting last until 4PM if necessary to address inquiries.

It would be helpful for offerors to roughly outline their questions/concerns in advance of this midstream meeting to assist Reclamation in accomplishing any necessary consideration/investigation for providing thorough responses. Please submit your written questions/concerns at any time before this scheduled meeting to Mr. Pete Lucero at the following email address [plucero@mp.usbr.gov](mailto:plucero@mp.usbr.gov). Mr. Lucero will hold your questions/concerns for this meeting unless you indicate in the message that you need a more immediate response.

Remember any questions/concerns from prospective offerors responded to by Reclamation at any time during the Prospectus process will be shared with all other known prospective offerors.

## **C. FORM IN WHICH PROPOSAL MUST BE SUBMITTED**

You must follow the format provided in the Prospectus in its entirety and without significant alteration when applying for the concession contract(s). Failure to submit a proposal according to these instructions without alteration (except for filling in the indicated blanks) will render your proposal nonresponsive. The need to follow the prescribed format will be important for all applicants but especially a challenge for any offerors that are submitting a proposal for multiple contract opportunities. General directions on submitting a proposal are located throughout this PART 3 of the Prospectus. Certain 'Special Conditions and Instructions' for offerors submitting for multiple opportunities are located in Section K of this PART 3 of the Prospectus and as appropriate in various other sections of this Prospectus.

1. **Pagination** - For your proposal to be considered responsive, each page of your proposal must have a page number and must be organized in a logical, easy-to-follow manner.
2. **References** - Each page of your proposal must also reference the location or criterion it is responding to in the Prospectus so the response can be clearly identified (e.g., Principal Factor 3, criterion B3 (b) 2.a).
3. **Additional Information** - Please include any additional information you may deem relevant to your proposal, but stay within the indicated organizational framework of the Prospectus.

## **D. WHERE AND HOW TO SUBMIT A PROPOSAL**

Completed proposals and any modifications must be submitted to Reclamation by the close of business on the due date and sent to the address indicated on the front page of this Prospectus. Proposals may be delivered in any manner convenient to the offeror during the normal business hours of the receiving office.

1. **Submit five hard copies of your proposal(s) following the format of the proposal presented within this Prospectus.** Also submit five complete electronic versions on CDs that also include the projected financial information. If you have drawings or large format plans that do not lend themselves to an electronic format, then you may submit extra hard copies of them with the five

CDs. Submitting less than the requested number of copies of your proposal will be considered nonresponsive.

2. Proposals and any modifications of those proposals must be enclosed in sealed containers (envelopes, boxes, etc.) and the following should be marked on the container in large letters:

- a. "LAKE BERRYESSA CONCESSION PROPOSAL PACKAGE, MAIL ROOM DO NOT OPEN."
- b. The due date specified in this Prospectus for receipt of the proposal by Reclamation.
- c. The name and address of the offeror. Offerors submitting their proposals by an express carrier must include their street address and phone number.

## **E. PROPOSALS WILL BE CONSIDERED PUBLIC DOCUMENTS**

All proposals submitted in response to this Prospectus will be disclosed by Interior to any person, upon request, to the extent required by the Freedom of Information Act (FOIA) (5 USC 552). If you believe that your proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under FOIA, mark the cover page of each copy of the proposal with the following legend:

*The information specifically identified on pages (list page numbers where confidential information exists) of this proposal constitutes trade secrets or confidential commercial and financial information that the offeror believes to be exempt from disclosure under the Freedom of Information Act. The offeror requests that this information not be disclosed to the public, except as may be required by law.*

You must specifically identify what you consider trade secret information or confidential commercial or financial information on the page of the proposal on which it appears, and you must mark each such page with the following legend:

*This page contains trade secrets or confidential commercial and financial information that the offeror believes to be exempt from disclosure under the Freedom of Information Act and which is subject to the notice regarding confidentiality contained on the cover page of this proposal.*

Information so identified shall not be made public by Reclamation except in accordance with the law.

## **F. QUESTIONS**

If you have questions regarding this Prospectus, you must submit your questions, in writing, to the contact person indicated on the front page of this Prospectus, no later than 30 days in advance of the submittal date. Reclamation will respond in writing to your question and will provide the question and response to all potential offerors through the mail, email or the Prospectus website. Questions received after this date may not be answered. Because Reclamation must provide equal information to all potential offerors, there must be sufficient time allowed to inform all potential offerors of such questions and answers.

To the extent appropriate, verbal questions regarding certain aspects of this Prospectus and the existing facilities will be answered during the scheduled meetings and location tours as identified in preceding section PART 3 section B. Questions asked and answered at these meetings and tours will be reduced to

a written document and made available to interested offerors within 1 week following the actual meetings/tours.

## **G. EVALUATION OF PROPOSALS AND SELECTION**

The minimum requirements for the new concession contract are identified in Part A of PART 5 of the Prospectus. Offerors must agree in their proposal to the minimum requirements of this Prospectus, as identified in Part A, and must provide all the information required by Part B of PART 5 for the proposal to be considered responsive.

The evaluation panel will consider each of the ‘Principal Factors’ as set forth in this Prospectus (Part B of PART 5) by assessing the narrative and other information presented in the offeror’s proposal in response to the requests for information and questions set forth under each ‘Criterion.’ The offeror’s response will be evaluated and rated according to one of four categories as “not satisfactory, satisfactory, good, or superior.” Rating points will be assigned between zero and up to the maximum total identified in PART 5.

It will be necessary for a proposal to achieve a “satisfactory” or better rating for each of the five ‘Principal Factors’ to be considered an acceptable or better proposal. A “not satisfactory” rating for any one of the five ‘Principal Factors’ will render an entire proposal “not satisfactory” and will be grounds for rejection.

The evaluation panel will provide a written consensus recommendation to the selecting official (Regional Director or delegate) that outlines in detail the reasoning for the recommendation. The panel will provide supporting information indicating why the recommended offeror exceeds other offerors on an overall basis.

## **H. SELECTING THE BEST PROPOSAL**

Reclamation will select as the best proposal(s) the proposal(s) that Reclamation determines will, on an overall basis, best achieve the objectives of Reclamation and is in the best interest of the Government. Reclamation will provide a narrative explanation for the selection.

## **I. PREFERENTIAL RIGHT OF RENEWAL**

No “Preferential Right of Renewal” exists with the current concession contractors. The new contract(s) also will not include any “Preferential Rights” and will be issued in accordance with Reclamation Policy and the associated Directives and Standards and the Reclamation Concessions Management Guidelines.

## **J. CAUTIONS TO OFFERORS ABOUT SUBMISSION AND EVALUATION OF PROPOSALS**

1. All information regarding this Prospectus will be issued in writing. No Reclamation or other Government official is authorized to make substantive oral representations regarding this Prospectus, and no offeror should rely on any oral representations made by Government officials regarding this Prospectus.

2. The proposal describes all the Principal Factors and criteria, the responses to which will be used by Reclamation to evaluate proposals. You, the offeror, should ensure that you fully respond to all questions provided under each Principal Factor.
3. This Prospectus and related documents reflect the views and objectives of Reclamation with regard to the proposed concession operation. Should you believe that any statement in this Prospectus is inaccurate, you must submit comments to Reclamation, in writing, no later than 30 days before the due date for proposals. Send your comments to Mr. Pete Lucero at the address on the front page of this Prospectus for Questions and Inquiries. If you send a 'disagreement' with a statement in the Prospectus and Reclamation determines that it is not an inaccuracy, the only response you may receive is a short recognition that the statement is not inaccurate but without any discussion or attempt at dialogue with Reclamation's position outlined in the Prospectus.
4. The information included in this Prospectus, including all appendices and other attachments, is provided to allow offerors to understand the concession's operations and the acceptable range of the terms and conditions of the new concession contract(s). The information is provided throughout all the documents contained in this Prospectus. Offerors are therefore encouraged to thoroughly review all information and required submittal documents before preparing a proposal.
5. A proposal to expand the scope of facilities or services beyond the already flexible parameters of those identified in this Prospectus may not be considered in the evaluation of proposals. Reclamation recognizes that the flexible nature of these concession opportunities at Lake Berryessa may result in a wide range of proposals and that understandably an offeror may not always recognize the point when they go beyond the identified parameters. In those situations, Reclamation will not penalize an offeror for certain aspects of their proposal but may also not consider those parts of the proposal judged to be outside the desired parameters; however, Reclamation will expect offerors to follow through with ANY aspects of their proposal package that is accepted and that may become a part of Reclamation's determination of a winning proposal.
6. A proposal to provide direct or indirect monetary or other benefit to Lake Berryessa or the Government that is not within the scope or requirements of the concession contract will not be considered in the evaluation of proposals. Notwithstanding, the concession contractor may be held responsible for carrying out its proposal to provide such direct or indirect monetary or other benefits not within the scope or requirements of the concession contract if they are otherwise selected as a winning offeror.
7. If you propose to make financial commitments in response to any Principal Factors, your proposal will be closely reviewed and analyzed to make sure your financial statements and supporting documents accurately reflect those commitments. Such documents include, but are not limited to, the pro forma income statements and pro forma cash flow statements required in the proposal. If Reclamation determines that your financial proposal and apparent financial expertise is unrealistic, that could result in your proposal being found nonresponsive.
8. The concession's rates for goods and services shall be similar to the rates for comparable goods and services in local and regional markets. Reclamation shall have the authority to make the final determination of appropriate rates; therefore, the projected income statements and cash flow statements and the benefit to the Government (franchise fee) proposed by the offeror should reasonably reflect such comparable rates.

9. All offerors must be aware that a part of the proposed or actual 'rate package' may NOT include an 'Entry Fee' charge for entering any of the concession areas. This type of fee is currently a practice at several of the concession operations at Lake Berryessa but will not be permitted in the next contract term. It is appropriate to propose and establish fees for certain types of 'day use', i.e., using picnic facilities, boat launch, swimming facilities, other amenities that have been developed by the concession contractor, etc. Visitors just wishing to visit the concession area and perhaps use the retail and food and beverage facilities or just 'look around' as part of their overall Lake Berryessa sightseeing will not be charged any type of entrance or use fees by the concession contractor.
10. The proposal and related materials submitted should reflect the entire proposal you wish to submit. Reclamation will consider your written submission as your full and final proposal in response to the Prospectus and will conduct the evaluation of proposals and make a selection of successful offeror(s) based on the written information you have submitted. Do not assume that Reclamation knows anything about you or your proposal. Do not assume that any information about you or your proposal, previous correspondence, or previous submissions are in the possession of or will be considered by Reclamation. This is true even if you are a past or current concession contractor at Lake Berryessa. As identified elsewhere in this Prospectus there may be adjustments made to eventual final contracts as a part of the final discussions between Reclamation and successful offeror(s).
11. The draft concession contract section of this Prospectus (PART 6) and its exhibits, which set forth the terms and conditions governing operation of the concession, are attached. The flexible nature of these contract opportunities means that the draft contract is more of a template in many respects than a nearly finished document. All offerors must realize and by their signature on the required documents agree to this approach of not having a nearly completed contract until Reclamation selects the winning offeror(s) and makes final contract adjustments and negotiations as outlined elsewhere in this Prospectus. Reclamation may amend a Prospectus and/or extend the submission date before the proposal due date. Reclamation may also cancel a solicitation at any time before the award of the concession contract if Reclamation determines, in its discretion, that cancellation is appropriate and meets the public interest. No offeror or other person will obtain compensable or other legal rights as a result of an amended, extended, canceled, or reissued solicitation for this concession contract.
12. The terms, conditions, and determinations of this Prospectus and the terms and conditions of the proposed concession contract, as described in this Prospectus, are not final until the concession contract has gone through final negotiations between a successful offeror(s) and Reclamation and a contract is awarded and executed. During final negotiations on an eventual contract Reclamation's determination will be final on areas of disagreement.
13. Because of the nature of this Prospectus and eventual contracts, outlined in the Introduction and other sections of the Prospectus, Reclamation is not providing any gross revenue projections as is normally the approach. In typical Prospectus opportunities, the entire business model is essentially complete and identified in the Draft Contract and other Prospectus sections. The many possible variations and combinations of business activities fostered by the approach in this Prospectus preclude Reclamation from providing any meaningful financial Pro Forma's. As a part of the planning process, Reclamation did complete an economic feasibility analysis for one scenario (Preferred Alternative B in the EIS) and that analysis demonstrated an opportunity for financial success. As a part of the analysis and evaluation of proposals, Reclamation will have a 'subject matter expert' as a part of the team who is qualified and has experience in reviewing economic feasibility within the Hospitality and Commercial Recreation industries. Offerors

should understand that proposals evaluated and found to have financially unreasonable projections may be determined to be non-responsive or at the minimum receive a lower rating.

14. Reclamation may request, from any offeror who has submitted a timely proposal, a written clarification of its proposal. Clarification refers to eliminating any ambiguities that may have been contained in a proposal but does not include amendment or supplementation of a proposal. An offeror may not amend or supplement a proposal after the submission date unless requested by Reclamation to do so and unless Reclamation provides all offerors that submit proposals a similar opportunity to amend or supplement their proposals.
15. The selected offeror must execute the concession contract promptly after selection of the best proposal and within the time established by Reclamation. If the selected offeror fails to execute the concession contract within the time period specified by Reclamation, then Reclamation will select another responsive proposal for award of the concession contract or may cancel the selection and may re-solicit proposals for the concession contract.
16. Document delivery services that offer overnight delivery may not provide true overnight delivery to some areas. Offerors will be responsible for ensuring the timely submittal of proposals by contacting the delivery service of their choice regarding delivery availability and timing for the submittal location specified on the front page of this Prospectus.
17. Reclamation will include, as terms of the eventual new concession contract(s), appropriate elements of the winning proposal(s) selected for award of the concession contract(s). Such appropriate elements of the proposal may include, but are not limited to, components of the offeror's proposed Operating Plan, Maintenance Plan, Environmental Management Program, or Risk Management Program.
18. Offerors are responsible for undertaking appropriate due diligence with respect to this business opportunity.
19. The Prospectus does not identify specific services as either 'Required Services or Authorized Services'. As a part of the bidding process, the offeror(s) will identify their proposed services and facilities (See PART 6 Draft Concession Contract Sec. 2.A for more information on this matter). Offeror(s) should only identify facilities and services that they intend to provide if selected and none should be considered as optional from the offeror(s) perspective. Reclamation may identify certain proposed facilities and services as not in compliance with the EIS or ROD and therefore not necessary and/or desired. To the extent that any particular service or facility is so noted by Reclamation as 'not desired', its proposal by a offeror will not be viewed as a negative impact on the remainder of the proposal or the associated evaluation/rating except that if a particular 'not desired' facility or service is such a substantial part of the overall proposal that its removal would measurably impact the economic feasibility. The final negotiated concession contract with any successful offeror(s) will obligate the new concession contractor(s) to provide all of the services and facilities identified in their proposal to this Prospectus except any identified by Reclamation as 'not desired'. Each of those services will be stipulated as a requirement of the concession contract, subject to the appropriate contractual obligations and limitations.
20. If during the concession contract term, Reclamation and the concession contractor mutually agree that the concession contractor may provide a service that is not stipulated in the concession contract, the concession contract will be amended to include that service as a requirement of the concession contract, subject to the same contractual obligations and limitations as other stipulated

services. A similar action could release a concession contractor from having to provide a service that both parties agree is no longer necessary.

21. Any successful offeror is not required to retain the existing names for concession areas at Lake Berryessa. As a part of the proposal offeror(s) may suggest the business name they intend to use but it is not required and can wait until final discussions in advance of finalizing the eventual contract(s). Reclamation must approve the eventual names even if the successful offeror(s) intends to retain the existing name. For the sake of clarity in this proposal, when referring to specific operations, all offerors should use the present names.
22. If an existing concessionaire at Lake Berryessa is selected as the winning offeror on any or all of the seven concession locations identified in this prospectus they must comply with any and all applicable requirements of their current contract, the ROD and the stipulations set forth in this prospectus (in regard to existing concessionaires) in advance of any final authorization to proceed and in advance of execution of any future contract. Two specific examples of requirements that must be met in advance of being authorized to operate under a new concession contract or before execution of a new contract at Lake Berryessa for existing concessionaires are:
  - a. The existing concession contractors at Lake Berryessa are responsible for ensuring that permittees remove all personal property from the concession area by the termination date of their respective concession contracts including trailers, mobile homes, and appurtenant structures such as decks, stairs and storage sheds. In the event of default, or should permittees abandon any trailers or personal property, Reclamation will take appropriate corrective measures. It is possible that an existing concessionaire could be selected as a winning offeror many months in advance of the date of expiration of their current contract and the date for execution of a new contract but any applicable requirements, as mentioned here or elsewhere in this prospectus, will still impact their eventual ability to continue as a concessionaire into a new contract term. (See Section 1.B. of PART 6 [Draft Contract] for additional information on the matter of abandoned or otherwise un-removed permittee trailers.)
  - b. An existing concessionaire, even if they are judged to have the best proposal submitted for any of the seven concession opportunities in this prospectus, will not be selected or authorized a new contract under this prospectus if they have any remaining or unpaid financial obligations to Reclamation as a result of their current concession operations. Such financial obligations would include any unpaid franchise fees or other fees or financial obligations stipulated in their current contract or as a result of written agreements established during the term of the current contract.

Failure by an existing concessionaire to meet these and/or other identified requirements of the current concession contracts will result in non-consideration or in the cancellation by Reclamation of their selection as a future concessionaire and the selection of another bidder or re-issuance of another prospectus. Similar failures by any bidder in regard to any past or present concession contracts with Reclamation or other Federal agencies could result in similar disqualifications for consideration.

23. Reclamation will work concurrently with new contractors during negotiations to address any conditions that may delay implementation of selected proposals (e.g. abandoned property).



## **K. SPECIAL INSTRUCTIONS AND DISCUSSION FOR: (1) OFFERORS SUBMITTING INDIVIDUAL PROPOSALS FOR MORE THAN A SINGLE CONCESSION OPPORTUNITY OR (2) OFFERORS SUBMITTING A COMBINED PROPOSAL FOR MORE THAN A SINGLE CONCESSION OPPORTUNITY**

As identified in the introduction to this Prospectus and in other applicable sections, this is a unique concession Prospectus opportunity. This Prospectus covers the new opportunities for seven individual concession contracts. The existing seven concession contracts all expire within the time period December 1, 2007, through May 26, 2009.

There are two approaches besides the standard approach (one single proposal for one location) that an offeror might select in submitting a proposal or proposals. An individual offeror may appropriately decide to participate in one or the other or a combination of both. The two additional approaches are:

1. Proposal on More Than One Single Concession Opportunity – This option is basically the same as a traditional package for a concession opportunity with the exception that an offeror may decide to submit multiple individual proposals for two or more concession locations. For example, an offeror could submit one proposal for Pleasure Cove, a second separate proposal for Putah Creek, and a third for Rancho Monticello. A offeror could submit up to seven separate proposals and could be selected as the successful offeror on one or any combination (including all seven) of the proposals submitted depending upon the strength of their individual packages in competition with other offerors.

In this scenario, multiple proposals from a single offeror would be evaluated as separate individual proposals during the proposal evaluation process. If a particular offeror is selected as the successful offeror on more than one concession opportunity, Reclamation will combine those two or more operations into a single concession contract. If this situation occurs, all offerors should understand that certain negotiations will occur to rectify any changes necessary from the individual proposals to satisfactorily combine the operations into a single contract. Under no situation will Reclamation authorize multiple concession contracts with the same operator but will combine them into a single contract that covers two or more locations.

To the extent possible in finalizing a combined contract, Reclamation and the successful concession contractor will address issues such as length of term, franchise fees, scheduling for capital improvement, maintenance and operating plans, etc. in a manner that considers the submitted individual proposals; however Reclamation's decision is pre-eminent in areas of disagreement, and the concession contractor, if dissatisfied, may decide to withdraw one or more of their successful proposals and just settle on a more limited opportunity.

2. Single 'Combined Proposal' that Includes Two or More Locations – This type of proposal would combine from two to seven of the existing operations as a single offer. In this approach, the offeror would be indicating a preference to operate multiple locations (two to seven) in a combined proposal. Such an approach may be preferable to some offerors because of the flexibility and revenue opportunities in operating multiple locations. There would also be an associated level of increased financial risk and management complexity in operating multiple locations. This approach also enhances the ability of an offeror to effectively address integration of commercial public services at Lake Berryessa (See Sec. B.2.d of PART 5 of this Prospectus and Sec. III.1.a of the ROD *[at Lake Berryessa Prospectus website]* for important information on the integration of services).

An example of a combined proposal would be one that includes Putah Creek, Rancho Monticello, Lake Berryessa Marina, and Spanish Flat (or any other mixture that may include up to all seven) where the offeror has indicated a desire to operate multiple locations in a single coordinated operation.

As described in PART 5 of this prospectus, the proposal evaluation process will score combined proposals in a manner that enables a comparison between a specific location i.e., Spanish Flat from the combined approach to any other offeror submitting a proposal for Spanish Flat whether combined or individual.

*For Example: If 'Offeror A' submitted a combined proposal for Spanish Flat, Pleasure Cove and Markley Cove their submission for the Spanish Flat portion of their proposal would be evaluated against all other offerors submitting either individual or combined proposals that include Spanish Flat. Therefore, if 'Offeror B' has submitted a proposal that is only for Spanish Flat and 'Offeror C' a proposal for Spanish Flat and Putah Creek, Reclamation will look at each of their particular proposals as it applies to Spanish Flat to draw a conclusion regarding the differences and similarities as it pertains to just Spanish Flat. However, Reclamation will consider how multiple location bidders have addressed the overall level of facilities and services to assure that they are not penalized for not having a specific type of operation, i.e. an RV Park at a particular location if they have adequately covered that need elsewhere. (See more detailed descriptions of these factors in Criterion B2 (d) of PART 5 of this prospectus)*

The same review/evaluation process will occur for each of the seven concession areas as Reclamation makes determinations on which offeror(s) submit the best proposal for individual locations and/or combined operations.

Because of the operational and managerial flexibilities inherent in a combined proposal, Reclamation will consider the overall combined impacts and provision of services in a combined proposal when comparing it to other (individual or combined) proposals for the same locations.

*For Example: Assume that an individual Offeror 'A' proposes for Spanish Flat, a well designed 50 site RV Park, a marina similar in size and function as currently exists, 25 short term cabins, 12 long term occupancy cabins, and a combined food & beverage and retail facility that fits satisfactorily with Reclamation's general desires for that area. While at the same time Offeror 'B' submits a combined proposal including Spanish Flat and several other locations that does not include RV sites at Spanish Flat but focuses instead on development of a similar Marina, 55 short term cabins, small full service cafe and a retail facility. They do not include an RV Park at Spanish Flat but do a very good job of adequately including RV Park components at other locations in their combined proposal. In this scenario it might seem that Offeror 'A' would score higher because of their address of an RV Park that Reclamation perceived as a positive addition at Spanish Flat, while Offeror 'B' did not. However, because Offeror 'B' had effectively addressed the overall need at other locations, Reclamation may determine that the 'A' proposal, while good, is not necessarily superior for the Spanish Flat location.*

If Reclamation believes that a combined proposal on multiple locations is very good and in an overall manner more effectively addresses the integration of services and facilities resulting in a

potentially better business mix and coordination of lakewide public services, they may select that offeror as an apparent successful proposal. Any selections as a new concession contractor whether from a multiple or individual proposal is conditional on final negotiations between Reclamation and the offeror(s) as earlier outlined in the 'Introduction to the Prospectus'. Because of the significant level of flexibility for offerors in this prospectus and the wide range of likely proposed business components Reclamation reserves the right to adjust proposals in the final negotiations to eliminate certain components that may not be seen as necessary or appropriate or to add components believed important by Reclamation. These final negotiations will be more in the manner of 'fine tuning' a submitted proposal. The final approved operation is still obviously very recognizable from an offerors' original proposal. If any conditional winning offeror does not feel they can agree to the 'fine tuning' proposed by Reclamation, and an impasse is reached, then Reclamation may select the next highest offeror or even re-advertise an individual location if it seems, in Reclamations judgment, that an effective proposal for any particular location does not exist.

Reclamation recognizes that an individual or company that submits a combined proposal covering multiple locations, as highlighted in the previous examples, may have structured the finances and proposed operational components of their overall proposal in such a manner that any deletion of a particular location from their overall combination might result in their non-interest or unwillingness to consider something less. However, Reclamation may determine that a combined proposal for multiple properties may be very good except for the submission on one or two of the locations OR that another offeror has such a superior proposal for a particular location that the subjects combined proposal does not compensate for the other offerors proposal in that one location. In that case, Reclamation may inform an offeror that has submitted a combined proposal on, for example, five locations, that they have been selected as a winning offeror on four of those locations and that a final contract for those four will be negotiated. The offeror that presented the package for 5 properties in this example could decide they are not interested in accepting a lesser package than their proposal in which case Reclamation would go to the next highest offeror(s) for the remaining four locations. However if the subject combined offeror did agree to accept the conditional package that included four locations instead of the five they proposed, then Reclamation would negotiate final contract terms and conditions (contract length, franchise fees if any, final level of investment and construction schedule, any necessary adjustments to proposed services and facilities necessary, etc.) to appropriately cover an operation of 4 locations in a new contract.

These are complicated options that all offerors should be prepared to discuss during the previously identified meetings with Reclamation to eliminate any confusion or concerns.

In recognition of preferences outlined during the EIS and Concession Planning process and the associated added risk and investment requirements those offerors who determine to submit either individual or combined proposals for more than a single location may receive additional points during the evaluation process. Please review Criterion B.2.(g) in PART 5 of this Prospectus for a complete detailed explanation of this potential scoring addition.

## **L. INSTRUCTIONS AND DISCUSSION REGARDING PUBLIC LAW 96-375 AND COMPENSATION TO OUTGOING CONCESSIONAIRES BY NEW CONCESSIONAIRES FOR EXISTING FACILITIES TO BE RETAINED FOR FUTURE USE DURING A NEW CONTRACT(S)**

This section applies in slightly differing manners among existing concession contractors that compete for

and are selected as the winning offeror at the location currently under their concession contract and offerors not currently the concession contractor of record for any specific Lake Berryessa location. Returning concession contractors would become a new concession contractor under a new contract, if they are selected as a successful offeror. There will be no need for them to consider the issue of compensation to an outgoing concession contractor on assets they already own. All offerors, including the existing concession contractors, must make specific determinations in their proposal as to the facilities they wish to retain and those not desired for further use. Each offeror must identify every permanent facility (except personal property) whether standing structures, infrastructure or floating assets that they propose to retain and omit at each location. A statement as simple as, “We do not intend to utilize any of the existing facilities with the exception of the current launch ramp and the restaurant” is acceptable as it notes that all other existing facilities are not intended to remain. Conversely a statement indicating that everything will be retained except the campground restrooms and the sewage treatment facilities provides adequate information. If there is ANY confusion in submitted proposals, Reclamation will ask for clarification in advance of any final negotiations with any winning offeror. As identified in this section, Reclamation retains the right to make all final determinations as to facilities, infrastructure, assets, etc. to be retained or removed as a part of the final negotiation process with any winning offeror.

Section 5b of Public Law 96-375 is shown below in its entirety:

*(b) Notwithstanding any other laws to the contrary, all permanent facilities placed by the concessionaires in the seven resorts at Lake Berryessa shall be considered the property of the respective current concessionaires. Further, any permanent additions or modifications to these facilities shall remain the property of said concessionaires: Provided, That at the option of The Secretary of the Interior, the United States may require that the permanent facilities mentioned herein **not be removed** from the concession areas, and instead, pay fair value for the permanent facilities or, if a new concessionaire assumes operation of the concession, require that new concessionaire to pay fair value for the permanent facilities to the existing concessionaire.(Emphasis added)*

This section of Public Law 96-375 authorizes Reclamation to specify the specific concession contractor owned facilities that are to remain (*not be removed*) for continued use into the next contract term. Concession contractors are to be compensated at fair value which is the same as Fair Market Value (FMV) by Reclamation or a new concession contractor for those identified remaining facilities but there is no right for compensation to the outgoing concession contractor for those facilities that were not designated or specified to remain. The appraisal can be reviewed in PART 7.10 of this Prospectus.

Reclamation considered, at the time the ROD was published, identifying facilities required to ‘**not be removed**’ and the reciprocal of that list, those facilities not permitted to remain and therefore not qualifying as compensable; however, it was decided that since this Prospectus is presenting the business model options in a flexible manner and asking offerors to identify the specifics of how they would operate in the various locations (within the parameters provided by the FEIS, ROD, and this Prospectus) that the offerors would be directed by this Prospectus to identify the existing facilities they wish to utilize and therefore purchase at FMV for the next contract term.

This approach also responds to a concern voiced by the existing concession contractors in relation to Reclamation identifying the facilities ‘to remain’ and ‘those to leave’. Existing concession contractors indicated during the public comment process and other meetings with Reclamation, that in relation to their existing property and the enforcement of PL 96-375, they would prefer to let the market decide what facilities should remain. Reclamation is not willing to abrogate the responsibility and legal right under Public Law 96-375 to identify facilities to remain. However, Reclamation believes that by permitting the offerors to this Prospectus to identify the facilities they would retain and use based upon their individual

proposals that, to the extent possible, the list of facilities to continue in use proposed by winning offerors provides a reasonable degree of ‘*market decision*’. Prospective offerors to this Prospectus comprise the only available legal market to determine whether existing concession facilities have application or merit to new proposed businesses. Furthermore, this approach provides more critical thought on the subject. After selection of a winning offeror for each of the seven contract opportunities, if it is not a current concession contractor, Reclamation would notify the existing concession contractor of the facilities to remain. Reclamation reserves the right to overrule any parts of a selected offeror’s retention decision if it is believed that certain facilities have significant deficiencies not adequately considered or positive attributes that should result in retention. It is Reclamation’s further intent, in compliance with Public Law 96-375, to require a new concession contractor to pay FMV to any outgoing concession contractors for those facilities they wish to retain.

There are no existing concession facilities specifically designated to remain into the next contract term and likewise there is no obligation on the part of any offeror to retain any existing facilities or property of the current concession contractors. Each offeror must decide what, if any, existing facilities they propose to retain and purchase. Further, as per the earlier information on Public Law 96-375 in this Section L, there is no obligation on the part of Reclamation or a new concession contractor to compensate an outgoing concession contractor for facilities not selected and designated to remain for use into the next contract term.

## **M. PUBLIC LAW 96-375 SECTION 5.B APPLIES TO THE NEXT CONTRACT TERM**

Public Law 96-375 Section 5.b continues to be the prescribed manner for determining the value of permanent facilities owned by any future concession contractor(s) at the original seven locations at Lake Berryessa. Permanent facilities are defined as fixed assets which are any structures, fixtures, or capital improvements permanently attached to the Federal estate. Please review the preceding Section L in regard to your proposal to this Prospectus. The FMV will be determined in the next concession contract based upon the ‘Cost Approach’ method of appraisal.

Please review Section 5.A of the Draft Concession Contract (PART 6 of this Prospectus) for additional information on this important issue.

## **N. FULLY DESCRIBING THE NEW PROPOSED CONCESSION OPERATIONS AND FACILITIES IN THE OFFEROR’S RESPONSE TO THIS PROSPECTUS**

This flexible approach that permits offerors to provide their own vision for concession operations at specific locations at Lake Berryessa during the next contract term also implies certain important obligations upon those offerors in preparing their proposals (See PART 5 of this Prospectus for more details on these necessary offeror descriptions).

## **O. INFRASTRUCTURE ISSUES AT STEELE PARK CONCESSION AREA**

The following information is provided by Napa County for the consideration of any Offeror submitting a proposal for the Steele Park concession area.

The Napa Berryessa Resort Improvement District (the District) provides both water and sewer service to 577 parcels in southeastern Napa County. The majority of the parcels in the District are single family residences, but the District also provides water and sewer service to Steele Park Resort.

The District's wastewater facilities include a wastewater collection system, treatment plant and land disposal system. The District operates its wastewater facilities under permit from the Central Valley Regional Water Quality Control Board (Regional Board), which prohibits discharge of treated effluent to surface water in this area. The Regional Board has directed the District to make upgrades and improvements to its wastewater treatment facilities in order to comply with its permit. The District's ability to complete the improvements necessary to comply with the permit is contingent on a variety of factors, including but not limited, the District entering into an agreement with the new concessionaire with regard to payment of and enforcement remedies with regard to assessments on the Steele Park property if Steele Park's share of the project costs are to be financed as part of the bond issue further discussed below.

The District's water facilities include a water treatment plant, pumping, storage and distribution systems. The District secures its water supply under Napa County's rights to water from Lake Berryessa and operates under a permit from the Department of Health Services.

Approximately 30% of the District's wastewater treatment capacity and 33% of the District's water supply capacity is used to serve Steele Park Resort.

In early 2007, the property owners in the District voted to form an Assessment District that would fund improvements the water and wastewater systems. If designed as approved, these upgraded facilities would provide adequate capacity for Steele Park Resort's historic demands.

The total estimated cost of the proposed improvements is \$13,908,081, of which \$8,780,000 is associated with sewer system improvements and \$5,128,081 is associated with water system improvements. These costs include the costs associated with financing the cost of the improvements through a municipal bond sale. The District has calculated that Steele Park Resort's share of these improvements is \$4,312,830.97, of which \$2,613,993.28 is associated with sewer system improvements and \$1,698,837.70 is associated with water system improvements.

Property owners that participate in the District's improvement program have the option of paying all or part of their share in cash during a 30 day period before bonds are sold. Property owners that elect to pursue this option will receive a refund of the variable financing costs (estimated to be 8 to 10% of the total costs). It is currently anticipated that a portion of the bonds may be sold as early as the fall of 2007, however no assurances can be made with regard to the timing of the bond sale.

Property owners that do not pay in cash, participate in the District's bond financing program. The District is currently pursuing bond financing through the United States Department of Agriculture's (USDA's) Rural Assistance Program and through a conventional municipal bond sale, which can provide a lower interest rate than private bond sales due to the fact that interest obtained on the municipal bond is tax exempt. The feasibility of a bond sale with Steele Park's participation in a bond sale has not yet been determined and is contingent on certain underwriting criteria being met. For purposes of the cost comparison below, USDA's estimated bond interest rate is assumed at 4.5% for a 39-year term. The interest rate for a conventional municipal bond sale is assumed at 5.75% for a 30-year term. Actual rates will be dependent on a variety of factors, including, but not limited to, market conditions at the time of the sale of the bonds. If Steele Park Resort participated in the financing program, billing would likely be on a semiannual basis, but other alternatives may be possible.

Table 1 below presents the various options for financing Steele Park Resort's share of the total project, the wastewater improvements only and the water improvements only.

**Table 1**

**Steele Park Resort**  
**Range of Anticipated Capital Improvement Costs**

	<b>Total</b>		<b>Wastewater Improvements Only</b>		<b>Water Improvements Only</b>	
<b>Steele Park Share of Improvements</b>	\$	4,312,837.97	\$	2,613,993.28	\$	1,698,837.70
<b>Steele Park Share Cash Discount</b>	\$	3,967,810.93	\$	2,404,873.82	\$	1,562,930.68
<b>Steele Park Share with Bond Financing</b>	USDA	Conventional	USDA	Conventional	USDA	Conventional
<b>Assumed Interest Rate</b>	4.50%	5.75%	4.50%	5.75%	4.50%	5.75%
<b>Bond Term</b>	39 years	30 years	39 years	30 years	39 years	30 years
<b>Annual Cost to Property Owner</b>	\$248,413	\$ 308,038	\$ 150,562	\$ 186,701	\$ 97,851	\$ 121,337
<b>Monthly Cost to Property Owner</b>	\$20,701	\$ 25,670	\$ 12,547	\$ 15,558	\$ 8,154	\$ 10,111

Table 2, below, illustrates the estimated operational and maintenance charges for Steele Park Resort based on historic use and the current rate structure.

**Table 2**  
**Steele Park Resort**  
**Average Water/Sewer Costs<sup>1</sup>**

	<b>EDU's<sup>2</sup></b>	<b>Monthly Availability Charge<sup>3</sup></b>	<b>Fixed Monthly Rate<sup>4</sup></b>	<b>Variable Rate<sup>4</sup></b>	<b>Average Bi-Monthly Charge</b>	<b>Average Annual Charge</b>
Water Charges	228	\$12.00	\$10.00	\$2.25	\$19,356.00	\$116,136.00
Sewer Charges	228	\$8.00	\$35.00	\$4.00	\$28,728.00	\$172,368.00
<b>Totals</b>	<b>228</b>	<b>\$20.00</b>	<b>\$45.00</b>	<b>\$6.25</b>	<b>\$48,084.00</b>	<b>\$288,504.00</b>

<sup>1</sup> Based on an average bi-monthly metered water use of 4.6 million gallons.

<sup>2</sup> Equivalent Dwelling Unit

<sup>3</sup> All parcels in the District, regardless if connected to the water and sewer systems or not, are charged an availability charge on their tax bill. As the Steele Park Resort receives no tax bill from the District, the availability charge is applied to the bi-monthly water and sewer bill.

<sup>4</sup> The Fixed and Variable Rates were increased on April 3, 2007. The average costs reflect the new rates applied to the average metered water use.

**History of District's Problem**

The District has been experiencing difficulties with its water and wastewater facilities since 1995. The difficulties are due primarily to the facilities reaching the end of its useful life and needing significant repairs or replacement. The District's approach to solving the water and wastewater difficulties has been to focus on small specific projects and upgrades that would keep the District's facilities operational. While the above repair and replacement projects have improved both systems, the issues are much larger than the small focused repair and upgrade approach can handle.

In October of 2006, the Regional Water Quality Control Board (RWQCB) issued a Cease and Desist Order (CDO) and Sewer Connection Moratorium to the District. The CDO was issued due to the District's non-compliance with its Waste Discharge Requirements (WDRs). The RWQCB provided a schedule to bring the District into compliance with its WDRs by 2012 by implementing the capital improvement projects outlined in the MFP. Once the District has reached compliance with the RWQCB's directives, which the projects associated with the Assessment District will accomplish, the sewer connection moratorium should be lifted.

While the Steele Park Resort already has a connection to the District's sewer system, the connection is based on 228 equivalent dwelling units, or EDUs. As such, this means that either the current concessionaire, or any new concessionaire wishing to utilize the existing sewer connection, would be limited to the existing number of EDUs while the connection moratorium is in effect. This does not mean that modifications to the Resort's collection system or to the Resort's layout cannot be done, only that the end result of the modifications must not increase the current number of EDUs.